

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TAYLOR DOLCE, on behalf of herself and all  
others similarly situated

Plaintiff(s),

**CIVIL CASE DISCOVERY PLAN  
AND SCHEDULING ORDER**

22-CV-3858 (PMH)

v.

THE LIV GROUP INC.

Defendant(s).

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This Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel and any unrepresented parties, pursuant to Fed. R. Civ. P. 16 and 26(f):

1. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. (If all parties consent, the remaining paragraphs of this form need not be completed and the parties shall file a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge (form AO 85) using the ECF Filing Event “Proposed Consent to Jurisdiction by US Magistrate Judge” prior to the Initial Pretrial Conference at which time such scheduled conference will be cancelled.)
2. This case is to be tried to a jury.
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed by December 5, 2022. (Absent exceptional circumstances, 30 days from date of this Order.)
4. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) shall be completed by November 17, 2022. (Absent exceptional circumstances, 14 days from date of this Order.)
5. Fact Discovery
  - a. All fact discovery shall be completed by August 3, 2023 (but see Appendix, which provides for joint report indicating whether any discovery is necessary following an Order on any Motion for Class Certification ). (Absent exceptional circumstances, a period not to exceed 120 days from date of this Order.)
  - b. Initial requests for production of documents shall be served by December 19, 2023.

- c. Interrogatories shall be served by June 30, 2023.
  - d. Non-expert depositions shall be completed by August 3, 2023.
  - e. Requests to admit shall be served by June 30, 2023.
  - f. Any of the interim deadlines in paragraphs 5(b) through 5(e) may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5(a).
6. Expert Discovery
- a. All expert discovery, including expert depositions, shall be completed by December 8, 2023 (but see Appendix, which provides for joint report indicating whether any discovery is necessary following an Order on any Motion for Class Certification). (Absent exceptional circumstances, 45 days from date in paragraph 5(a); i.e., the completion of all fact discovery.)
  - b. Plaintiff's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by (see Appendix).
  - c. Defendant's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by (see Appendix).
  - d. The interim deadlines in paragraphs 6(b) and 6(c) may be extended by the written consent of all parties without application to the Court, provided that all expert discovery is completed by the date set forth in paragraph 6(a).
7. Additional provisions required by Fed. R. Civ. P. 26(f) and agreed upon by the parties are attached hereto and made a part hereof.
8. ALL DISCOVERY SHALL BE COMPLETED BY December 8, 2023 (but see Appendix, which provides for joint report indicating whether any discovery is necessary following an Order on any Motion for Class Certification). (Absent exceptional circumstances, this date should align with the close of expert discovery.)
9. The parties shall file a joint letter concerning settlement/mediation by August 17, 2023. (Unless otherwise ordered by the Court, within 14 days after the close of fact discovery).
- 10.
- a. Counsel for the parties have discussed an informal exchange of information in aid of an early settlement of this case and have agreed upon the following: the parties will discuss with the mediator the scope and process for informally sharing information sufficient to meaningfully engage in the mediation and settlement discussions.
  - b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a

Magistrate Judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case: private mediation.

- c. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph b, be employed at the following point in the case (e.g. within the next sixty days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery): the parties have agreed to schedule, prepare for, and attend private mediation within the next 90 days.
  - d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.
11. All motions and applications shall be governed by the Court's Individual Practices, including the requirement of a pre-motion conference before a motion for summary judgment is filed.
  12. Unless otherwise ordered by the Court, within 30 days after the date for the completion of discovery, or, if a dispositive motion has been filed, within 30 days after a decision on the motion, the parties shall submit to the Court for its approval a Joint Pretrial Order prepared in accordance with the Court's Individual Practices. The parties shall also comply with the Court's Individual Practices with respect to the filing of other required pretrial documents.
  13. The parties have conferred and their present best estimate of the length of the trial is 7 days.
  14. This Civil Case Discovery Plan and Scheduling Order may not be modified or the dates herein extended without leave of the Court or the assigned Magistrate Judge acting under a specific order of reference (except as provided in paragraphs 5(f) and 6(d) above).
  15. The Magistrate Judge assigned to this case is the Honorable \_\_\_\_\_.
  16. If, after the entry of this Order, the parties consent to trial before a Magistrate Judge, the Magistrate Judge will schedule a date certain for trial and will, if necessary, amend this Order consistent therewith.
  17. The next case management conference is scheduled for \_\_\_\_\_ at \_\_\_\_\_. (The Court will set this date at the initial conference.)

Dated: \_\_\_\_\_

White Plains, New York

SO ORDERED:

\_\_\_\_\_  
Philip M. Halpern  
United States District Judge

**ADDENDUM TO CIVIL CASE DISCOVERY PLAN AND SCHEDULING ORDER**

The following deadlines shall also apply to this matter:

1. The parties shall file a joint status report by November 3, 2022, indicating whether this matter has settled in private mediation.
2. Expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) on which a party bears the burden of proof shall be made by September 1, 2023.
3. Expert rebuttal shall be made by October 13, 2023.
4. Expert surrebuttal disclosures shall be made by November 17, 2023.
5. Any Motion for Class Certification shall be filed by January 17, 2024.
6. The parties shall meet and confer and file a joint status report to the Court within 14 days after the Court issues an order on any Motion for Class Certification. The letter shall address proposed schedules for alternative dispute resolution, remaining discovery, and dispositive motions.

For the convenience of the Court and the parties, the foregoing dates and deadlines are summarized in the following table:

<b>Event</b>	<b>Deadline</b>
Joint status report re: mediation (before discovery)	November 3, 2022
Initial disclosures	November 17, 2022
Motions to amend or join additional parties	December 5, 2022
Initial requests for production	December 19, 2022
Interrogatories	June 30, 2023
Requests for admission	June 30, 2023
Non-expert depositions	August 3, 2023
Fact discovery cutoff	August 3, 2023
Joint status report re: settlement (after fact discovery)	August 17, 2023
Expert disclosures on which a party bears the burden of proof	September 1, 2023
Expert rebuttal disclosures	October 13, 2023
Expert surrebuttal disclosures	November 17, 2023
Expert discovery cutoff	December 8, 2023
Motion for Class Certification	January 17, 2024
Joint status report re: proposed schedules for alternative dispute resolution, remaining discovery, and dispositive motions	14 days after Order on Motion for Class Certification